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The grounds of the petition are as follows:

1. Petitioner is well-known and recognized in the marketplace as the originator, licensor, and distributor of computer software identified by the trademark CLUBLOGIC. The software is used for health facility management, personal training, health assessment, and related functions. The software is sold throughout the United States, and Petitioner is favorably known for the quality of its software.

2. Long prior to the dates of first use alleged by Registrant, namely, June 21, 2000, Petitioner's predecessor-in-interest adopted and used, and Petitioner continues to use in commerce its trademark CLUBLOGIC, in connection with computer software. Petitioner's predecessor-in-interest, People Karch International Company (which Petitioner acquired in 2002) began use of the mark at least as early as March, 1987.

3. The Trademark Examiner has refused registration of Petitioner's Application Serial No. 78-078357 for the mark CLUBLOGIC under Section 2(d) of the Trademark Act on the grounds of confusing similarity to registration No. 2,563,305 issued to Registrant. This refusal by the Trademark Examiner constitutes a legal conflict between the marks of the parties as applied to their respective services and Petitioner is thereby damaged by the continued registration of Registration No. 2,563,305.

4. Registrant's predecessor-in-interest, People Karch International Company, was the owner of a registration of CLUBLOGIC (Reg. No. 1,668,347) for "computer software in the fields of health, physical fitness, and health management services." The registration, which issued on December 17, 1991, was inadvertently permitted to lapse. However, the mark has been used continuously, and has not been abandoned.

5. Petitioner's CLUBLOGIC mark, by virtue of its substantial use for some fifteen years, has acquired great value as an identification of its goods, through significant sales and promotion of the software sold under the mark. Petitioner has built up, at great expense and effort, a valuable goodwill symbolized by the CLUBLOGIC mark, which is likely to be diluted or destroyed by the subject registration, to Petitioner's irreparable damage.

6. The mark CLUB LOGIC as shown in the subject registration is identical to Petitioner's CLUBLOGIC mark as to sound and significance, and virtually identical as to appearance, so as to be likely to cause confusion, mistake, or to deceive within the meaning of the Trademark Act of 1946, all to Petitioner's irreparable damage.

7. The application of the software identified by Registrant is highly similar, if not identical, to that of Petitioner, so that use of the name CLUB LOGIC for the management of club facilities, recreational resorts, and associated websites will cause the trade and the public at large to be confused, mistaken, or deceived into the belief that Registrant's software emanates from or is in some way affiliated with Petitioner. This will result in irreparable damage to Petitioner.

8. The website design and development services of Registrant, including consultation services, are similar to the consultation services of Petitioner, in connection with club and health facilities. This will cause the trade and the public at large to be confused into the mistaken belief that Registrant's software originates with Petitioner.

9. Petitioner has no control over the nature and quality of the goods and services provided by Registrant under the mark CLUB LOGIC, and the Petitioner's reputation and goodwill in the marketplace will, therefore, be damaged and the value of its CLUBLOGIC mark jeopardized, all to Petitioner's irreparable damage.

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10. Upon information and belief, Registrant has not used its CLUBLOGIC trademark in commerce prior to June 21, 2000.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained in favor of Petitioner and that Registration No. 2,563,305 be cancelled.

Respectfully submitted,

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